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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,786	05/11/2001	V.S. Meenakshi Sundaram	016499-883	5196

7590

08/12/2002

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EXAMINER

ALVO, MARC S

ART UNIT

PAPER NUMBER

1731

6

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

72-6

<b>Office Action Summary</b>	Application N .	Applicant(s)	
	09/852,786	SUNDARAM ET AL.	
	Examiner	Art Unit	
	Steve Alvo	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2002.
- 2a) ☒ This action is **FINAL**.
- 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some \* c) ☐ None of:
    - 1. ☐ Certified copies of the priority documents have been received.
    - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-10, 13-21, 23 and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CANADIAN PATENT APPLICATION 2,078,276 for the reasons set forth in Paper No. 4, page 2.

Claims 1, 2, 5-10, 13-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over CANADIAN PATENT APPLICATION 2,078,276 in view of SIXTA et al, for the reasons set forth in Paper No. 4, page 3.

Claims 3, 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over CANADIAN PATENT APPLICATION 2,078,276 in view of SIXTA et al and HORNSEY et al or WO 93/15264, for the reasons set forth in Paper No. 4, page 4.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over CANADIAN PATENT APPLICATION 2,078,276 in view of SIXTA et al and CIRUCCI et al or UCHIDA et al, for the reasons set forth in Paper No. 4, page 4.

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Claims 1-10 and 13-24 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-11 and 13-21 of copending Application No. 09/559,993. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Claim 1-10 and 13-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 and of copending Application No. 09/559,993. Although the conflicting claims are not identical, they are not patentably distinct from each other because they only differ in scope. It would have been obvious that the pressures of claim 10 of S.N. 09/559,993 do not patentably distinguish over the claimed "greater than 1.4 psi".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 11 and 12 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 and 13-21 of copending Application No. 09/559,993 in view of CIRUCCI et al or UCHIDA et al.

It would have been obvious to produce the oxygen of claims of 09/559,993 in a pressure swing absorption process as such is conventional in the art as taught by CIRUCCI et al (column 5, lines 29-35) or UCHIDA et al.

This is a provisional obviousness-type double patenting rejection.

The argument that the CANADIAN PATENT discloses the use of a high shear mixer with medium consistency pulp and not with low consistency pulp is not convincing as the

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alternativeness of using either medium or low consistency pulp is disclosed in the CANADIAN PATENT on page 10, lines 12-20. There is no teaching in the CANADIAN PATENT that the disclosed high shear mixer is only used with medium consistency pulps. Besides it is known from the CANADIAN PATENT that low consistency pulps are easier to handle than medium consistency pulps, e.g. do not require any special equipment, see page 10 lines 26-32. While medium consistency pulps are harder to pump and require special pumps. If necessary, it would therefore be obvious to use the medium consistency high shear mixer of the CANADIAN PATENT APPLICATION on low consistency pulp as the low consistency pulp is easier to handle and does not require any special equipment. Besides if the CANADIAN PATENT APPLICATION does not teach the use of a high shear mixer on low consistency pulp or if the use of if the use of a high shear mixer on low consistency pulp is not obvious over the CANADIAN PATENT APPLICATION, then such is taught by SIXTA et al. The argument that the Examples of SIXTA et al use medium consistency and not low consistency is not convincing as the disclosure of SIXTA et al is not limited to the examples. SIXTA et al teach that the process could use consistencies of 3 to 20%. This overlaps the claimed consistency of 1 to less than 5%. This is the same step used by Applicant as the claimed ranges overlap the ranges of SIXTA et al. See In re Malagari, 182 USPQ 549; Ex Parte Lee, 31 USPQ 2d 1105, 1106.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

When filing an **"Official"** FAX in Group 1730, please indicate in the Header (upper right) **"Official"** for papers that are to be entered into the file. The **"Official"** FAX phone numbers for this TC 1700 are:

**Non-Final Fax: (703) 872-9310      After-Final FAX: (703) 872-9311.**

When filing an **"Unofficial"** FAX in Group 1730, please indicate in the Header (upper right) **"Unofficial"** for Draft Documents and other Communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers. The **"Unofficial"** FAX phone number for this Art Unit (1731) is **(703) 305-7115.**

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **(703) 308-2048.** The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST).**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on 703-308-1164.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **703-308-0661.**

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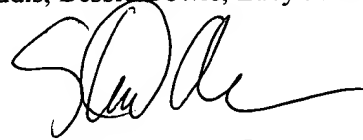
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**STEVE ALVO**  
**PRIMARY EXAMINER**  
**ART UNIT 1731**

MSA  
8/9/02